

(RULING BY THE SPEAKER)

RULING ON THE POINT RAISED BY THE MINISTER FOR
LAW REGARDING THE CONSIDERATION OF THE PUBLIC
MEN ENQUIRIES BILL.

Mr.SPEAKER :—Now I have to give a few rulings. On 29th August 1969, Sri H. N. Nanje Gowda sought to move a motion for taking into consideration the the Bill “ The Mysore Public Men Enquiries Bill, 1969 ” introduced by him earlier.

The Minister for Law, Labour and Parliamentary Affairs raised a point of order, objecting to the motion for consideration of the said Bill. The contention of the Minister was that the Bill could not be taken into consideration by the House on two grounds, one being that this House was not competent to consider a Bill of the kind in question, as it was beyond the jurisdiction of this House, and the second was that the Bill involved expenditure from the consolidated fund of the State and therefore, recommendation of the Governor under Sub-clause (3) of Article 207 of the Constitution was necessary for the consideration of the Bill. The Hon. Minister advanced elaborate arguments in support of his two contentions. He stated that under the provisions of the Bill, the Chief Justice of the High Court or the other Judges of the High Court would be performing non-judicial functions and therefore, this House was not competent to entrust to a Judge any duties other than what came within the jurisdiction and powers of the High Court.

The Minister further stated that by entrusting such function as are envisaged in the Bill to the High Court, separate staff including additional Judges would be necessary, and therefore, additional expenditure would have to be incurred Since the Bill was not accompanied by a financial memorandum and the necessary recommendation from the Governor for the consideration of the Bill, the Bill could not be taken into consideration.

Sri H. N. NANJE GOWDA and several members opposed the point of order. They also advanced elaborate arguments in support of their contentions. As the House is aware, a detailed discussion took place on three days on the point of order raised by the Minister. During the course of their speeches, several members spoke on the desirability of enacting a measure the kind of introduced by Sri Nanje-Gowda.

I have carefully considered the observations made by the Minister for Law, Sri Nanje Gowda and the other Hon'ble Members. I have gone into the several provisions of the Bill. It is not for me to say

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anything about the desirability of a measure of this kind. It is for the House to judge. The scheme of the Bill introduced by Sri Nanje Gowda indicates that an individual presents a petition to the Governor, making a request for enquiry into an accusation. The Governor refers the accusation made therein for preliminary scrutiny to a judge. The Chief Justice thereafter, is required to refer the matter to a judge of the High Court. The words used in clause 4 of the Bill are that on a request in this behalf being made by the Governor, the Chief Justice shall, for the purpose of making the scrutiny, refer the matter to a Judge etc.

Clause 5 provides that the Judge shall scrutinise the accusation informally and expeditiously. Under Clause 13, the Judge is required to pronounce his findings at the end of the enquiry. Sub-clause (2) of the said Clause states : that where the Judge is of opinion that it is expedient in the interest of justice that the person accused or any other person concerned with the subject matter of the accusation should be prosecuted he shall record a finding to that effect. Sub-clause (4) of the same clause contemplates that the Vigilance Commissioner will take necessary steps for the prosecution of the person concerned.

The above provisions will thus indicate that the Judge of the High Court is required to perform certain functions which cannot be called judicial in nature. A Judge is required to give his decision in a case and his decision is enforceable. What the Bill proposes to entrust to the High Court is only a sort of fact-finding enquiry against individuals which is a non-judicial function. If the Judge has to do any non-judicial function, it would follow that more number of Judges are necessary for performing these functions.

Sri H N. NANJE GOWDA pointed out a ruling of the Speaker of Lok Sabha, wherein the Speaker of Lok Sabha has observed that whenever an individual offence is created under an Act, no new Court was established and therefore, a financial memorandum was not necessary for consideration of the essential services maintenance Bill. I have gone into that ruling also. I am afraid, the case now before us is different from the case which was before the Speaker of Lok Sabha. In the present Bill, what we are entrusting to a Judge is a function which is not the normal function of a Judge of the High Court. In the case quoted by Sri Nanje Gowda, a new offence was created and hence it was rightly held that recommendation of the President was not necessary.

Considering the above, I hold that the Bill requires recommendation of the Governor for consideration by the House and without such recommendation, the consideration motion cannot be taken up. It is

not necessary for me to give my ruling on the question as to whether the House is competent to consider such a Bill. As I have already stated that the Bill requires recommendation, I need not say anything about the competence of this House to consider this Bill.

RULING ON A QUESTION OF PRIVILEGE AGAINST THE CHIEF MINISTER ON A PHAMPLET "MYSORE AFTER INTEGRATION".

Mr. SPEAKER:—On 21st January 1970, Sri H. N. Nanje Gowda raised a question of privilege against the Chief Minister. Sri Nanje-Gowda alleged that the document "Mysore after integration—Survey of Development of different Regions" laid by the Chief Minister on the Table of the House on 9th September 1969 contained misleading figures. He further contended that the Chief Minister chose the last day of a Session for laying on the Table of the House the particular document. Secondly, the member has alleged that the statement is not correct in regard to the expenditure incurred by the Government on the integrated areas. I have considered whether these two facts would constitute prima facie case to give my consent.

I have gone through a number of rulings of the Presiding Officers when such matters of privileges were sought to be raised in Parliament and other State Legislatures.

According to "May", the House may treat the making of a deliberately misleading statement as a contempt. In 1963, the House of Commons resolved that in making a personal statement which contained words which he later admitted to be true a member had been guilty of a grave contempt. (Profuma's case).

A breach of privilege arises only when the member or the Minister makes a false Statement or an incorrect statement wilfully, deliberately and knowingly.

On 17th August 1966, in Lok Sabha when two members sought to raise a question of privilege against the Minister for Food and Agriculture on the ground that he had suppressed the truth and misled the Public Accounts Committee when he appeared before them, the Speaker of Lok Sabha observed among other things as follows:—

"Incorrect statements made by a Minister cannot be the basis for a breach of privilege. It is only a deliberate falsehood, if it can be substantiated, that would certainly bring the offence within the meaning of breach of privilege."